

REMARKS

Claims 1-18 are pending in the present application and subject to a restriction requirement. No new matter is inserted into the application.

Sequence Listing

Enclosed herewith in full compliance with 37 C.F.R. §§1.821-1.825 is a Substitute Sequence Listing to be inserted into the specification as indicated above. The Substitute Sequence Listing in no way introduces new matter into the specification. Also submitted herewith in full compliance with 37 C.F.R. §§1.821-1.825 is a disk copy of the Substitute Sequence Listing. The disk copy of the Substitute Sequence Listing, file "2004-01-22 4456-0101P.st25", is identical to the paper copy, except that it lacks formatting.

The amendments to the specification are being made to identify sequences by their SEQ ID NOS. The *lox71* sequence on page 13 is amended to correct a typographical error. No new matter is introduced by these amendments.

Response to Restriction Requirement

The Examiner has required an election in the present application between:

Species A. a trap vector comprising SEQ ID NO:1;

Species B. a trap vector comprising SEQ ID NO:2;

Species C. SP-SA-lox71-IRES-M-loxP-PV-SP

Species D. SP-lox71-IRES-M-loxP-PV-SP

Species E. SA-lox71-IRES-M-loxP-pA-PV-SP

Species F. SA-lox71-IRES-M-loxP-puro-pA-PV-SP

Species G. lox71-M-loxP-pA-lox2272-PV-lox511

Species H. lox71-IRES-M-loxP-pA-lox2272-PV-lox511

Species I. (lox71-integrated SA)-M-loxP-pA-lox2272-PV-lox511

Species J. (lox71-integrated SA)-IRES-M-loxP-pA0lox2272-PV-lox511

Species K. (lox71-integrated SA)-M-loxP-pA-lox2272-promoter-M-lox511-SD

For the purpose of examination of the present application, Applicants elect Species A, a trap vector comprising SEQ ID NO:1, with traverse. Claim(s) 1-18 are directed to the elected species. As acknowledged by the Examiner, at least claim(s) 1, 4, and 9-18 are generic.

The Examiner asserts that the species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features. Specifically, the Examiner asserts, "[T]he species are all materially different products that are trap vectors. PCT Rules 13.1 and 13.2 do not provide for multiple products and methods within a general inventive concept." Applicants respectfully submit that the Restriction Requirement is improper for the following reason.

Specifically, the Examiner has not established that there is a lack of unity of invention as required by 37 C.F.R. § 1.475 for PCT applications. As noted in MPEP 1893.03(d), in order to establish lack of unity of invention, the Examiner must (1) list the different groups of claims and (2) explain why each group lacks unity with each other group (i.e. why there is no single general inventive concept) **specifically describing the unique special technical feature** in each group [*emphasis added*]." U.S. Pat. & Trademark Off., *Manual Pat. Examining Proc.* § 1893.03(d) (8th ed. rev. 1, 2003). In the instant case, the Examiner has failed to specifically describe the special technical feature of each group of claims and further has failed to explain why each group of claims lacks unity with every other group. In fact, the

Examiner acknowledges that all of the species are directed to trap vectors. Thus, contrary to the Examiner's assertions, the present application is directed to inventions which are so linked as to form a single general inventive concept, i.e., trap vectors.

For these reasons, the Restriction Requirement is technically deficient and should be withdrawn. Reconsideration of the claims and withdrawal of the instant Restriction Requirement are respectfully requested.

Conclusion

If the Examiner has any questions regarding the above, he is respectfully requested to contact Kristi L. Rupert, Ph.D. (Reg. No. 45,702) at the telephone number of the undersigned below.

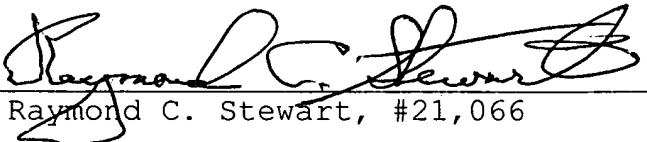
Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of one (1) month to Sunday, February 22, 2004, in which to file a reply to the Office Action. The required fee of \$110.00 is enclosed herewith.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any


additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By 
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RCS/KLR
Attachments:

Disk Copy of Sequence Listing
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Copy of Notice to Comply